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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648-BD76

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
Dolphin and Wahoo Fishery Off the Atlantic States and Snapper-Grouper
Fishery of the South Atlantic Region; Amendments 7/33**

**AGENCY: National Marine Fisheries Service (NMFS), National Oceanic
and Atmospheric Administration (NOAA), Commerce.**

ACTION: Notice of availability; request for comments.

SUMMARY: The South Atlantic Fishery Management Council (Council) has submitted Amendment 7 to the Fishery Management Plan (FMP) for the Dolphin and Wahoo Fishery off the Atlantic States (Dolphin and Wahoo FMP) and Amendment 33 to the FMP for the Snapper-Grouper Fishery of the South Atlantic Region (Snapper-Grouper FMP) (Amendments 7/33) for review, approval, and implementation by NMFS. Amendments 7/33 propose actions to revise the landing fish intact provisions for vessels that lawfully harvest dolphin, wahoo, or snapper-grouper in or from Bahamian waters and return to the U.S exclusive economic zone (EEZ). The U.S. EEZ as described in this document refers to the Atlantic EEZ for dolphin and wahoo and the South Atlantic EEZ for

snapper-grouper. The purpose of Amendments 7/33 is to improve the consistency and enforceability of Federal regulations with regards to landing fish intact and to increase the social and economic benefits related to the recreational harvest of these species.

DATES: Written comments must be received on or before [***INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER***].

ADDRESSES: You may submit comments on Amendments 7/33 identified by "NOAA-NMFS-2015-0047" by any of the following methods:

- Electronic submissions: Submit electronic comments via the Federal e-Rulemaking Portal:
http://www.regulations.gov. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0047*, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- Mail: Submit written comments to Nikhil Mehta, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted

voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic copies of Amendments 7/33, which includes an environmental assessment, a Regulatory Flexibility Act analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office Web site at http://sero.nmfs.noaa.gov/sustainable_fisheries/s_atl/generic/2015/dw7_sg33/index.html.

FOR FURTHER INFORMATION CONTACT: Nikhil Mehta, Southeast Regional Office, telephone: 727-824-5305, or e-mail: nikhil.mehta@noaa.gov.

SUPPLEMENTARY INFORMATION: The dolphin and wahoo fishery is managed under the Dolphin and Wahoo FMP and the snapper-grouper fishery is managed under the Snapper-Grouper FMP. The FMPs were prepared by the Council and are implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Magnuson-Stevens Act also requires that NMFS, upon receiving a plan or amendment, publish an announcement in the **Federal Register** notifying the public that the plan or amendment is available for review and comment.

Background

Current Federal regulations require that dolphin or wahoo or

snapper-grouper species harvested in or from the U.S. EEZ must be maintained with the heads and fins intact and not be in fillet form. However, as implemented through Amendment 8 to the Snapper-Grouper FMP, an exception applies to snapper-grouper species that are lawfully harvested in Bahamian waters and are onboard a vessel returning to the U.S. through the EEZ (63 FR 38298, July 16, 1998). Amendment 8 to the Snapper-Grouper FMP allows that in the South Atlantic EEZ, snapper-grouper lawfully harvested in Bahamian waters are exempt from the requirement that they be maintained with head and fins intact, provided valid Bahamian fishing and cruising permits are on board the vessel and the vessel is in transit through the South Atlantic EEZ. A vessel is in transit through the South Atlantic EEZ when it is on a direct and continuous course through the South Atlantic EEZ and no one aboard the vessel fishes in the EEZ.

The Bahamas does not allow for the commercial harvest of dolphin, wahoo, or snapper-grouper species by U.S. vessels in Bahamian waters. Therefore, the measures proposed in Amendments 7/33 only apply to the recreational harvest of these species in The Bahamas and on a vessel returning from Bahamian water to the U.S. EEZ.

Actions Contained in Amendments 7/33

Amendments 7/33 would revise the landing fish intact provisions for vessels that lawfully harvest dolphin, wahoo, and snapper-grouper in Bahamian waters and return to the U.S. EEZ.

Amendments 7/33 would allow for dolphin and wahoo fillets to enter the U.S. EEZ after lawful harvest in Bahamian waters; specify the condition of any dolphin, wahoo, and snapper-grouper fillets; describe how the recreational bag limit would be determined for any fillets; explicitly prohibit the sale or purchase of any dolphin, wahoo, or snapper-grouper recreationally harvested in Bahamian waters; specify the required documentation to be onboard any vessels that have these fillets, and specify transit and stowage provisions for any vessels with these fillets.

Landing Fish Intact

Currently, all dolphin and wahoo in or from the Atlantic EEZ are required to be maintained with head and fins intact. These fish may be eviscerated, gilled, and scaled, but must otherwise be maintained in a whole condition. Amendments 7/33 would allow for dolphin and wahoo lawfully harvested in Bahamian waters to be exempt from this provision when returning to the Atlantic EEZ. Dolphin or wahoo lawfully harvested in or from Bahamian waters would be able to be stored on ice more effectively for transit through the U.S. EEZ in fillet form, given the coolers generally used on recreational vessels. Allowing fishers on these vessels to be exempt from the landing fish intact regulations would increase the social and economic benefits for recreational fishers returning to the U.S. EEZ from Bahamian waters. This proposed exemption would also allow for

increased consistency between the dolphin and wahoo and snapper-grouper regulations. This proposed action would not be expected to substantially increase recreational fishing pressure or otherwise change recreational fishing behavior, because these species would not be exempt from U.S. recreational bag limits, fishing seasons, size limits, or other management measures in place in the U.S. EEZ, including prohibited species (e.g., goliath grouper and Nassau grouper). Therefore, the Council and NMFS anticipate that there are likely to be neither positive nor negative additional biological effects to these species.

Snapper-grouper possessed in the South Atlantic EEZ are currently exempt from the landing fish intact requirement if the vessel lawfully harvests snapper-grouper in The Bahamas. This action would retain this exemption for snapper-grouper species and revise it to include additional requirements.

Condition of Fillets

To better allow for identification of the species of any fillets in the U.S. EEZ, Amendments 7/33 would require that the skin be left intact on the entire fillet of any dolphin, wahoo, or snapper-grouper carcass (fillet) transported from Bahamian waters through the U.S. EEZ. This requirement will assist law enforcement in identifying fillets to determine whether they are only of the species to be exempted by Amendments 7/33.

Recreational Bag Limits

Currently, all dolphin, wahoo, and snapper-grouper harvested or possessed in or from the EEZ must adhere to the U.S. bag and possession limits. Amendments 7/33 would not revise those bag and possession limits, but would specify how fillets are counted with respect to determining the number of fish onboard a vessel in transit from Bahamian waters through the U.S. EEZ and ensuring compliance with U.S. bag and possession limits. Amendments 7/33 would specify that for any dolphin, wahoo, or snapper-grouper species lawfully harvested in Bahamian waters and onboard a vessel in the U.S. EEZ in fillet form, two fillets of the respective species of fish, regardless of the length of each fillet, is equivalent to one fish. This measure is intended to assist law enforcement by helping ensure compliance with the relevant U.S. bag and possession limits.

Sale and Purchase Restrictions of Recreationally Harvested Dolphin, Wahoo or Snapper-Grouper

Amendments 7/33 would explicitly prohibit the sale or purchase of any dolphin, wahoo, and snapper-grouper recreationally harvested in The Bahamas and transported through the U.S. EEZ. The Council determined that establishing a specific prohibition to the sale or purchase of any of these species from The Bahamas was necessary to ensure consistency with the current Federal regulations that prohibit recreational bag limit sales of these species. The Council

wanted to ensure that Amendments 7/33 and the accompanying rulemaking do not create an opportunity for these fish to be sold or purchased.

Required Documentation

Amendments 7/33 would revise the documentation requirements for snapper-grouper species and implement documentation requirements for dolphin and wahoo lawfully harvested in Bahamian waters and in transit through the U.S. EEZ. For snapper-grouper lawfully harvested under the exemption, the current requirement is that valid Bahamian fishing and cruising permits are on the vessel. Amendments 7/33 would retain the current requirement that valid Bahamian fishing and cruising permits are onboard and additionally require that all vessel passengers have stamped and dated government passports. These documentation requirements would apply to individuals onboard a vessel in transit through the U.S. EEZ from Bahamian waters with dolphin, wahoo, or snapper-grouper fillets. Requiring vessel passengers to have a valid government passport with current stamps and dates from The Bahamas will increase the likelihood that the vessel was lawfully fishing in The Bahamas and that any dolphin, wahoo, or snapper-grouper fillets on the vessel were harvested in Bahamian waters and not in the U.S. EEZ.

Transit and Stowage Provisions

Snapper-grouper vessels operating under the current exemption have specific transit requirements when in the South Atlantic EEZ

as described in § 622.186(b). These vessels are required to be in transit when they enter the South Atlantic EEZ with Bahamian snapper-grouper onboard. A vessel is in transit through the South Atlantic EEZ when it is on "a direct and continuous course through the South Atlantic EEZ and no one aboard the vessel fishes in the EEZ." Amendments 7/33 would revise the snapper-grouper transit provisions, also apply the transit provisions to vessels operating under the proposed exemption for dolphin and wahoo, and require fishing gear to be appropriately stowed on vessels transiting through the U.S. EEZ with fillets of these species. The proposed definition for "fishing gear appropriately stowed" would mean that "terminal gear (*i.e.*, hook, leader, sinker, flasher, or bait) used with an automatic reel, bandit gear, buoy gear, handline, or rod and reel must be disconnected and stowed separately from such fishing gear. Sinkers must be disconnected from the down rigger and stowed separately." The Council determined that specifying criteria for transit and fishing gear stowage for vessels returning from The Bahamas under the exemption would assist in the enforceability of the proposed regulations and increase consistency with the state of Florida's gear stowage regulations.

A proposed rule that would implement measures outlined in Amendments 7/33 has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating Amendment 7/33 and the

proposed rule to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If the determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Consideration of Public Comments

The Council submitted Amendments 7/33 for Secretarial review, approval, and implementation on May 1, 2015.

Comments received on or before [***INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER***], will be considered by NMFS in the approval, partial approval, or disapproval decision regarding Amendments 7/33. Comments received after that date will not be considered by NMFS in this decision. All relevant comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 14, 2015

Alan D. Risenhoover,
Director,

Office of Sustainable Fisheries,

National Marine Fisheries Service.

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